

**NEIL ABERCROMBIE**  
GOVERNOR



**CATHERINE PAYNE**  
CHAIRPERSON

STATE OF HAWAII  
**STATE PUBLIC CHARTER SCHOOL COMMISSION**  
**(‘AHA KULA HO‘ĀMANA)**  
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
Tel: 586-3775 Fax: 586-3776

**RECOMMENDATION SUBMITTAL**

---

DATE: June 26, 2014  
TO: Catherine Payne, Chairperson  
FROM: Tom Hutton, Executive Director  
AGENDA ITEM: Action on Financial Insolvency of Hālau Lōkahi Charter School

---

**I. DESCRIPTION**

Recommendation that the Commission:

1. Adopt a contingency dissolution plan for Hālau Lōkahi Charter School (“Halau Lokahi”) in the event of school-initiated closure or dissolution, or if the school ceases to exist as a public charter school as a matter of law;
2. Direct Halau Lokahi, in expending such funds it has received or may receive, to assign the first priority to the payment of earned but unpaid teacher compensation; and
3. Direct Commission staff, as soon as is practicable, to assume such student registration responsibilities for Halau Lokahi as may be necessary or prudent to ensure that registration information is up to date and that enrollments and withdrawals are timely processed, and direct Halau Lokahi’s governing board and staff to cooperate with this arrangement.

**II. AUTHORITY**

Pursuant to Chapter 302D-19, Hawaii Revised Statutes, in the event of a school closure for any reason, the Commission shall oversee and work with the school to ensure a smooth and orderly closure and transition for students and parents.

### III. BACKGROUND

At its June 18, 2014, General Business Meeting, the Commission voted to offer a new State Public Charter School Contract ("Charter Contract") to Halau Lokahi, with several special provisions including the resignation of the current governing board and the current school director. The Commission noted that if the Charter Contract were not fully executed by June 30, 2014, Halau Lokahi would legally cease to be a public charter school and, in this event, directed staff to commence closure of the school consistent with the governing board's decision. The special provisions were included in the Charter Contract that the Commission offered to the School on June 19, 2014. As of this writing, the Commission has received neither the executed Charter Contract nor any indication of the governing board's intent to accept the offered Charter Contract and continue operating Halau Lokahi as a public charter school.

Halau Lokahi recently received its third quarter FICA reimbursement and is projected to receive a fourth quarter FICA reimbursement as well as the last installment of fiscal year funding from the Office of Hawaiian Affairs. In addition, in a separate submittal on today's agenda, staff recommends the allocation of additional federal Impact Aid funding to the school.

Of the school's unmet financial obligations for the fiscal year, arguably none are more compelling on a human or a legal level than the need to compensate teachers for work they already have performed. These 10-month employees are paid over 12 months. If Halau Lokahi is unable to survive its financial situation at this time of year, teachers are the school employees who may face the greatest challenges in obtaining other employment. For these reasons, and for others detailed in the separate submittal on Impact Aid funding, staff believes the top priority for funding unmet obligations should be compensating the teachers.

Finally, at the June 18, 2014, General Business Meeting, representatives of Halau Lokahi indicated that they have struggled to enter enrollment data for newly enrolled students into the Department of Education's ("DOE") online registration system. The school entire staff has effectively been laid off, and under these circumstances the Commission has rightly required that they cooperate with Commission staff in providing the detailed financial information required to ascertain the exact situation and how it came about. At the same time, enrollment is critical to any scenario in which the school can survive, and accurate, up-to-date enrollment data are indispensable. In addition, for families wishing to avail themselves of other enrollment options, even as a contingency, timely processing of withdrawal from Halau Lokahi is important.

#### DECISION MAKING STATEMENT

It would be prudent for the Commission to adopt now a dissolution contingency plan to be ready to in the event either that:

1. Halau Lokahi's current governing board should elect not to enter into a new Charter Contract and therefore opt to have Halau Lokahi legally cease to be a public charter school

on July 1, 2014; or

2. Halau Lokahi's current governing board should choose to enter into the Charter Contract, but the newly reconstituted governing board conclude after assuming governance of the school and attempting to find a way for the school to survive that it is in the best interests of the students, parents, and community to voluntarily cease operation and surrender the Charter Contract.

Staff recommends the Commission adopt the dissolution contingency plan attached as **Exhibit 1**, with the understanding that these plans shall be exclusively used for Halau Lokahi Charter School under the present unique circumstances and under either of the above contingencies. The contingency plan is based on the school closure protocol drafted for the Commission by the National Association of Charter School Authorizers ("NACSA"), but adopted for the current situation. The protocol developed by NACSA contemplated a more routine closure scenario than one in which the school already was financially insolvent weeks before the start of the new academic year.

For the reasons set forth above and in the separate submittal in federal Impact Aid, staff also recommends that the Commission direct Halau Lokahi to make the compensation of teachers for work already performed the first spending priority for any funds it currently has available or receives.

Finally, for the reasons described above, staff also recommends that the Commission direct the staff to assist Halau Lokahi and its current and prospective families by assuming, as soon as is practicable, responsibility for student registration functions such as enrollment and withdrawal, and that it direct the school to cooperate with this new arrangement.

#### IV. RECOMMENDATION

**"Moved that the Commission:**

1. **Adopt the dissolution contingency plan for Hālau Lōkahi Charter School ("Halau Lokahi"), attached to this submittal dated June 26, 2014, as Exhibit 1, to be implemented only in the event of a school-initiated closure or dissolution, or if the school ceases to exist as a public charter school as a matter of law by declining its new State Public Charter School Contract to be effective July 1, 2014;**
2. **Direct Halau Lokahi, in expending such funds as it has received or may receive, to assign the first priority to the payment of earned but unpaid teacher compensation; and**
3. **Direct Commission staff, as soon as is practicable, to assume such student registration responsibilities for Halau Lokahi as may be necessary or prudent to ensure that registration information is up to date and enrollments and withdrawals are timely**

processed, and direct the governing board and staff of Halau Lokahi to cooperate with this arrangement.”

**Exhibit 1**

**Dissolution Contingency Plan for Halau Lokahi Charter School**

# State Public Charter School Commission Contingency Plan for Halau Lokahi Charter School Dissolution

For purposes of this document, "dissolution date" refers to the date by which the school voluntarily surrenders its Charter Contract or dissolves in accordance with Section 13 of the Charter Contract, or the date on which the school ceases to exist as a public charter school as a function of law.

For all actions items assigned to Commission staff, the school governing board shall cooperate with actions.

## IMMEDIATE ACTIONS

ACTION ITEM		COMPLETION DATE	STATUS
1	<p><b>"Halau Lokahi Dissolution: Frequently Asked Questions" Document</b></p> <p>Commission staff will create and disseminate a general document from Commission outlining Commission's policies, commitment to quality authorizing through supporting the transition of students and staff to new settings, overview of transition steps, general timelines, checklist for parents transitioning to a new school in the next school year, and Commission contact information.</p>	Within 3 business days of the dissolution date	
2	<p><b>Establish Transition Team and Assign Roles</b></p> <p>Commission staff will create a team dedicated to ensuring the smooth transition of students and staff and close down of the school's business. The team shall include an SPCSC Commissioner, the executive director of the SPCSC or his designee, the SPCSC Financial Performance Manager, and, if possible, at least one member of the school's governing board, and the lead administrator from the school, and the lead finance person from the school.</p>	Within 5 business days of the dissolution date	

3	<p><b>Initial Closure Notification Letter: Parents &amp; School</b> Commission staff shall provide written letter to faculty, staff, and parents outlining:</p> <ul style="list-style-type: none"> <li>- Closure decision;</li> <li>- Timeline for transition; and</li> <li>- Help Line information.</li> </ul>	Within 5 business days of the dissolution date	
4	<p><b>Initial Closure Notification Letter: State &amp; Local Agencies</b> Commission staff shall notify HIDOE and complex areas, as appropriate, of the closure for purposes of preparation to enroll students, with notification to include:</p> <ul style="list-style-type: none"> <li>- notification materials distributed to parents;</li> <li>- notification materials distributed to faculty and staff; and</li> <li>- Commission decision materials, resolution to close school, copy of any termination agreement (if applicable).</li> </ul> <p>Copy local complex areas as required by quality practice, state statute and regulation</p>	Within 5 business days of the dissolution date	
5	<p><b>Secure Student Records</b> Commission staff shall ensure all student records are organized, up to date, and maintained in a secure location.</p>	Within 15 business days of the dissolution date	
6	<p><b>Secure Financial Records</b> Commission staff shall ensure all financial records are organized, up to date, and maintained in a secure location.</p>	Within 15 business days of the dissolution date	
7	<p><b>Parent Contact Information</b> Commission staff shall create Parent Contact List to include:</p> <ul style="list-style-type: none"> <li>- student name;</li> <li>- address;</li> <li>- telephone; and</li> <li>- email, if possible.</li> </ul> <p>Provide a copy of the parent contact information to the Commission.</p>	Within 24 hours of the dissolution date	

8	<p><b>Faculty Contact Information</b> Commission staff shall create Faculty Contact List that includes:</p> <ul style="list-style-type: none"> <li>- name;</li> <li>- position;</li> <li>- address;</li> <li>- telephone; and</li> <li>- email.</li> </ul> <p>Provide a copy of the list to the Commission.</p>	Within 24 hours of the dissolution date	
9	<p><b>Assign Transition Team Action Item Responsibilities</b> Commission staff shall distribute contact information to all transition team members, set calendar for meetings, and assign dates for completion of each charter school closure action item.</p>	Within 10 business days of the dissolution date	
10	<p><b>Convene Parent Dissolution Meeting</b> Commission staff shall ensure that a parent meeting is held. At the meeting:</p> <ul style="list-style-type: none"> <li>- Copies of "Dissolution FAQ" document shall be made available;</li> <li>- An overview of the events prompton dissolution of Halau Lokahi and the dissolution plan shall be presented;</li> <li>- Parents shall be provided with a calendar of important dates, including a timeline for dissolving school operations; and</li> <li>- Parents shall be provided with contact and Help Line information.</li> </ul>	Within 10 business days of the dissolution date	



11	<p><b>Communicate with Faculty/Staff</b> Staff shall ensure that the school communicates the following to faculty and staff:</p> <ul style="list-style-type: none"> <li>– commitment to continuing coherent school operations throughout dissolution transition;</li> <li>– plan to assist students and staff by making closing as smooth as possible;</li> <li>– reasons for dissolution;</li> <li>– timeline for transition details;</li> <li>– compensation and benefits timeline; and</li> <li>– contact information for ongoing questions.</li> </ul>	Within 10 business days of the dissolution date	
12	<p><b>Establish Use of Reserve Funds</b> If school has reserve funds, Commission staff shall identify acceptable use of such funds to support the orderly closure of the school.</p>	Within 10 business days of the dissolution date	
13	<p><b>Maintenance of Location and Communication</b> Commission staff will determine whether the school will maintain the current facility as its locus of operation for the duration of closing out the school's business, regulatory, and legal obligations. In the event the facility is sold or otherwise vacated before concluding the school's affairs, the school must relocate its business records and remaining assets to a location where a responsive and knowledgeable party is available to assist with closure operations. The school must maintain operational telephone service with voice message capability and maintain custody of business records until all business and transactions are completed and legal obligations are satisfied. The school must immediately inform the Commission if any change in location or contact information occurs.</p>	Ongoing until closure complete	

14	<p><b>Insurance</b></p> <p>The school's assets and any assets in the school that belong to others must be protected against theft, misappropriation, and deterioration. The school should:</p> <ul style="list-style-type: none"> <li>- maintain existing insurance coverage until the disposal of such assets under the school closure action plan;</li> <li>- continue existing insurance for the facility, vehicles, and other assets until 1) disposal or transfer of real estate or termination of lease, and 2) disposal, transfer, or sale of vehicles and other assets;</li> <li>- negotiate facility insurance with entities that may take possession of school facility (lenders, mortgagors, bond holders, etc.);</li> <li>- continue or obtain appropriate security services; and</li> <li>- plan to move assets to secure storage after closure of the school facility.</li> </ul> <p>If applicable under state statute, the school should maintain existing directors and officers liability (D&amp;O) insurance, if any, until final dissolution of the school.</p>	Ongoing until all business related to closure is completed	
----	--	--	--

## NOTIFICATIONS

ACTION ITEM		COMPLETION DATE	STATUS
15	<p><b>Union Notification Pursuant to any Collective Bargaining Agreement</b></p> <p>If applicable, the school should contact legal counsel and work with them to notify any unions of termination of collective bargaining agreements (CBAs) and the pending cessation of instruction, pursuant to the notice requirements set forth in any existing CBA or notice requirements of applicable federal, state, and local law. The school should:</p> <ul style="list-style-type: none"> <li>- consult with legal counsel with respect to notice requirements for terminating the CBA and the legal implications with respect to termination of CBAs and the termination of employees connected to the CBAs;</li> <li>- provide a copy of the latest CBA to the Commission;</li> <li>- provide a copy of the notice to the Commission; and</li> <li>- keep the Commission informed of the implications, penalties, and damages in connection with any termination of a CBA and ongoing discussions and negotiations with the union in connection with termination.</li> </ul>	Within 10 business days of the dissolution date	

16	<p><b>Parent/Guardian Closure Transition Letter</b></p> <p>Commission staff shall ensure that parents/guardians receive letter with detailed guidance regarding transition plan. Notification should include, but not be limited to:</p> <ul style="list-style-type: none"> <li>- notification of mandatory enrollment under state law;</li> <li>- date(s) of any planned school choice fair(s);</li> <li>- listing of the contact and enrollment information for charter, parochial, public, and private schools in the area;</li> <li>- information on obtaining student records pursuant to the state Freedom of Information Law before the Commission's vote to close the charter school; and</li> <li>- contact information for parent/guardian assistance/questions.</li> </ul> <p>Provide the Commission with a copy of the letter.</p>	Within 10 business days of dissolution date	
17	<p><b>Staff/Faculty Closure Transition Letter</b></p> <p>Outline transition plans and timelines for staff, including but not limited to:</p> <ul style="list-style-type: none"> <li>- commitment of school's board to transitioning staff;</li> <li>- commitment to positive transition of children into new educational settings;</li> <li>- timelines for compensation and benefits;</li> <li>- timelines for outstanding professional development issues;</li> <li>- COBRA information;</li> <li>- pertinent licensure information; and</li> <li>- transition team member contact information.</li> </ul> <p>Provide the Commission with a copy of the letter and any accompanying materials.</p>	Within 10 business days of the dissolution date	

18	<p><b>Agency Notifications</b></p> <p>The Commission staff shall ensure that the school satisfies statutory and regulatory obligations to ensure a smooth transition for students. Check requirements under state statute and regulation. Agency notifications may include:</p> <ul style="list-style-type: none"> <li>- State Department of Education;</li> <li>- Department of Budget and Finance;</li> <li>- office of the Governor;</li> <li>- State Legislature;</li> <li>- state retirement system;</li> <li>- Department of Accounting and General Services;</li> <li>- Employer-Union health benefits trust fund;</li> </ul>	Within 10 business days of the dissolution date	
19	<p><b>Notification of Contractors Agreement</b></p> <p>Commission staff shall ensure that the school provides a list of all contractors with contracts in effect and:</p> <ul style="list-style-type: none"> <li>- notifies them regarding school dissolution and cessation of operations;</li> <li>- instructs contractors to make arrangements to remove any contractor property from the school by a certain date (copying machines, water coolers, other rented property);</li> <li>- retains records of past contracts as proof of full payment; and <ul style="list-style-type: none"> <li>- maintains telephone, gas, electric, water, and insurance (including Directors and Officers liability insurance) long enough to cover the time period required for all necessary dissolution procedures to be complete.</li> </ul> </li> </ul>	Within fifteen business days of the dissolution date	

20	<p><b>Notification to Creditor</b></p> <p>SPCSC Financial Performance Manage shall solicit from each creditor a final accounting of the school's accrued and unpaid debt. Compare the figures provided with the school's calculation of the debt and reconcile.</p> <p>Where possible, negotiate a settlement of debts consummated by a settlement agreement reflecting satisfaction and release of the existing obligations.</p>	Within 20 business days of the dissolution date	
21	<p><b>Notification to Debtors</b></p> <p>Contact all debtors and demand payment. If collection efforts are unsuccessful, consider turning the debt over to a commercial debt collection agency. All records regarding such collection or disputes by debtors regarding amounts owed must be retained.</p> <p>Provide the Commission a written summary of this activity.</p>	Within one month of the Commission's vote to close the charter school	

22	<p><b>Notification of Employees and Benefit Providers</b></p> <p>The school should establish an employee termination date and:</p> <ul style="list-style-type: none"> <li>- notify all employees of termination of employment and/or contracts;</li> <li>- notify benefit providers of pending termination of all employees;</li> <li>- notify employees and providers of termination of all benefit programs;</li> <li>- terminate all programs as of the last date of service in accordance with applicable law and regulations (e.g., COBRA), including: <ul style="list-style-type: none"> <li>- health care/health insurance;</li> <li>- life insurance;</li> <li>- dental plans;</li> <li>- eyeglass plans;</li> <li>- cafeteria plans;</li> <li>- 401(k) retirement plans; and</li> <li>- pension plans.</li> </ul> </li> </ul> <p>Specific rules and regulations may apply to such programs, especially teachers' retirement plans, so legal counsel should be consulted.</p> <p>Provide the Commission copies of all materials.</p>	<p>Within 45 days of the Commission's vote to close the charter school</p>	
----	--	--	--

## RECORDS

ACTION ITEM		COMPLETION DATE	STATUS
23	<p><b>Final Report Cards and Student Records Notice</b> Commission staff shall ensure that:</p> <ul style="list-style-type: none"> <li>- all student records and report cards are complete and up to date;</li> <li>- parents/guardians are provided with copies of final report cards and notice of where student records will be sent (with specific contact information); and</li> <li>- parents/guardians receive a reminder letter or post card reminding them of the opportunity to access student records under Freedom of Information law.</li> </ul>	Within 10 business days of the dissolution date	
24	<p><b>Transfer of Testing Materials</b> Commission staff shall ensure that the school meets state requirements regarding disposition of state assessment materials stored at the school and return as required.</p> <p>Provide Commission with letter outlining transference of testing materials.</p>	Within 10 business days of the dissolution date	
25	<p><b>Transfer of Student Records</b> Commission staff shall ensure that the school, as required by state statute, transfers all student records to students' new schools, a state agency, or another entity. Student records to include:</p> <ul style="list-style-type: none"> <li>- grades and any evaluation;</li> <li>- all materials associated with Individual Education Plans;</li> <li>- immunization records; and</li> <li>- parent/guardian information.</li> </ul> <p>The school must contact the DOE and complex areas, as appropriate, to notify them of how (and when) records—including special education records—will be transferred. In addition, the school must create a master list of all records to be transferred and state their destination(s).</p>	Within 20 business days of the dissolution date or prior to the start of the new school year	



26	<p><b>Documenting Transfer of Records</b></p> <p>The school must ensure that written documentation of the transfer of records accompanies the transfer of all student materials. The written verification must include:</p> <ul style="list-style-type: none"> <li>- the number of general education records transferred;</li> <li>- the number of special education records transferred;</li> <li>- the date of transfer;</li> <li>- the signature and printed name of the charter school representative releasing the records; and</li> <li>- the signature and printed name of the recipient(s) of the records.</li> </ul> <p>Provide copies of all materials documenting the transfer of student records to the Commission.</p>	Within 20 business days of the dissolution date	
27	<p><b>Disposition of Records</b></p> <p>If the school's governing board has a records retention policy, or if records retention in charters is governed by state law, follow the appropriate policy and/or law.</p> <p>Commission staff shall ensure that the school shall maintain all corporate records related to:</p> <ul style="list-style-type: none"> <li>- loans, bonds, mortgages, and other financing;</li> <li>- contracts;</li> <li>- leases;</li> <li>- assets and asset sales;</li> <li>- grants (records relating to federal grants must be kept in accordance with 34 CFR 80.42)</li> <li>- governance (minutes, by-laws, policies);</li> <li>- employees (background checks, personnel files);</li> <li>- accounting/audit, taxes, and tax status;</li> <li>- employee benefit programs and benefits;</li> <li>and</li> <li>- any items provided for in the closure action plan.</li> </ul> <p>If the school does not have a records retention policy, and no state law governs records retention in charter schools, or if the school's board abdicates responsibility for records, Commissions that seek to take possession of personnel, non-student, and non-personnel records should consult legal counsel about liabilities.</p>	Within 60 business days of the dissolution date and ongoing	

## FINANCIAL

ACTION ITEM		COMPLETION DATE	STATUS
28	<p><b>Inventory</b></p> <p>The SPCSC Financial Performance Manager shall ensure that the school must:</p> <ul style="list-style-type: none"> <li>- create a fixed asset list segregating state and federal dollars;</li> <li>- note source codes for funds and price for each purchase; and,</li> <li>- establish fair market value, initial and amortized for all fixed assets.</li> </ul> <p>Provide the Commission with a copy of all documents.</p>	Within 15 business days of the dissolution date	
29	<p><b>Disposition of Inventory</b></p> <p>The SPCSC Financial Manager shall establish a disposition plan (e.g., auction), and establish a payment process (e.g., cash, checks, credit cards) for any remaining items. Properly dispose of property purchased with federal funds</p> <p>Provide the Commission with a copy of all documents.</p>	Within 45 business days dissolution date	
30	<p><b>Payment of Funds</b></p> <p>The SPCSC Financial Performance Manager should work with the school to develop a prioritized payment strategy considering state and local requirements. Using available revenue and any funds from auction proceeds, pay the following entities:</p> <ul style="list-style-type: none"> <li>- retirement systems;</li> <li>- teachers and staff;</li> <li>- employment taxes and federal taxes;</li> <li>- audit preparation;</li> <li>- private creditors;</li> <li>- overpayments from state/Commission; and</li> <li>- other as identified by the Commission.</li> </ul>	Plan complete within 45 business days of the dissolution date and ongoing activity until completed	

31	<p><b>Itemized Financials</b></p> <p>The SPCSC Financial Performance Manager shall review, prepare, and make available:</p> <ul style="list-style-type: none"> <li>- fiscal year-end financial statements;</li> <li>- cash analysis;</li> <li>- list of compiled bank statements for the year;</li> <li>- list of investments;</li> <li>- list of payables (and determinations of when a check used to pay the liability will clear the bank);</li> <li>- list of all unused checks;</li> <li>- list of petty cash; and</li> <li>- list of bank accounts.</li> </ul> <p>Additionally, collect and void all unused checks as well as close accounts once transactions have cleared. Establish a date by which to complete a final close out audit by an independent firm.</p>	Within 90 business days of the dissolution date	
32	<p><b>Payroll Reports</b></p> <p>SPCSC Financial Performance Manager shall ensure that the school generates a list of all payroll reports including taxes, retirement, or adjustments on employee contracts.</p>	Within 45 business days of the dissolution date	

33	<p><b>Property Purchased with Charter School Program (CSP) funds</b> The SPCSC Financial Performance Manager shall establish under state or individual school agreements required disposition of property purchased with CSP funds. Generally, property purchased with CSP funds must first be offered to other charter schools within the same region in which the closing school is located, with requisite board resolutions consistent with the purpose of the CSP. If no schools want the property, an auction must be held to dispose of the CSP assets. The school must:</p> <ul style="list-style-type: none"> <li>- ensure public notice of the auction is made widely;</li> <li>- price items at fair market value, as determined from inventory and fixed assets policy; and</li> <li>- determine with the state education department how to return funds if any remain.</li> </ul> <p>Provide the Commission board resolutions and minutes of any transfer of assets with a dollar value of zero (0) to another school.</p>	Within 60 business days of the dissolution date	
----	---	---	--